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ABSTRACT

The issue of subminimum wages for full-time students who are working part-time is discussed in this publication of the National Student Association. It is suggested that large corporations and institutions of higher education are benefiting from these low wages, while students trying to finance their education during a time of growing inflation are suffering. According to the Department of Labor records, over 624,037 students were paid subminimum wages in FY 1976. Over 1,300 higher education institutions paid subminimum wages to 481,195 of these students. Federal regulations pertaining to subminimum wages are discussed. Seven steps for student action to eliminate subminimum wages are detailed. A list of regional Wage and Hour Division Offices of the Department of Labor is included as well as a list of institutions that have applied for college Work Study Subminimum Wage waivers. The text of Subpart B of the code of Federal Regulations pertaining to subminimum wages at institutions of higher education is also included. (SF)

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Target Report

Sub Minimum Wage

No.12

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Over 1300 institutions paid sub-minimum wages to over 470,000 students in 1976. The numbers are rising. Does your campus pay sub-minimum wage? Is your campus in compliance with the law and regulations? This report will help you fight sub-minimum wage and its illegal use on your campus.

HE 011 543

NSA-NSL

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Sub-minimum wages have existed under the Fair Labor Standards Act for the last 18 years. For the first 13 years retail establishments were granted permission to employ full time students working part time at a wage less than the minimum. In 1973 amendments to the Fair Labor Standards Act included provisions allowing institutions of higher education to pay full time students at less than the minimum wage. Sub-minimum wage is limited to 85% of minimum wage. Minimum wage is currently $2.65 an hour. It will rise to $2.90 beginning January 1, 1979, to $3.10 by January 1, 1980 and to $3.35 by January 1, 1981.

According to Department of Labor records over 624,037 students were paid sub-minimum wage in Fiscal Year ending September 1976. Over 1,300 institutions of higher education payed sub-minimum wages to 481,195 of the 624,037 students.

Until June 24, 1976 all public and private institutions of higher education were required to petition for a certificate from the Department of Labor in order to pay full time students less than minimum wage. On that date the Supreme Court in the case of National League of Cities vs Usery held that the minimum wage and overtime provisions of the Fair Labor Standards Act do not apply to (state or local) public institutions. As a result special circumstances apply to College Work Study jobs. Previously institutions were required to apply separately to the Department of Labor for permission to pay sub-minimum wage and to the Office of Education in order to pay sub-minimum wage to College Work Study employees. Now private institutions apply only to the Department of Labor and automatically receive a waiver from the Office of Education. Public institutions apply to the Office of Education for permission to pay less than minimum wage to College Work Study employees only.

Who benefits from sub-minimum wages? Not the student , but the powerful

business-corporate lobbies who wish to advance their retail interests and institutions of higher education. The McDonalds Corporation devoted much time and money to see the sub-minimum provision adopted. The McDonalds Corporation employs large numbers of student-workers nationwide (exact figures were not available from McDonalds corporate headquarters). A 15% wage subsidy would make a significant cut in their payroll. Institutions also benefit. As can be seen from the Department of Labor figures institutions employ over 77% of all of the full time students who work for sub-minimum wages. The Department of Labor estimates that every institution of higher education that pays sub-minimum wages employs an average of 281 students at this rate. Ability to pay wages less than minimum to full time students constitutes a major incentive to institutions to replace regular workers with students at less than the prevailing wage rate.

Although 15% may not seem such a significant loss of income to have a detrimental effect on students ability to continue with their education, it is often the difference between staying in school and being forced to drop-out. Because of the student sub-minimum wage, full time students working working part-time can earn only $35 to $45 a week. In these days of $15 text books, high food and living costs, the problem of paying for one's education becomes insurmountable.

The student sub-minimum wage rate comes at a time when students are faced with greater costs than ever before. While Federal funding for financial aid increases, inflation has reduced the real value to these student assistance programs. If Congress continues to allow colleges and retail organizations to use sub-minimum wage rates to cut their institutional expenses, it will

come out of the pockets of the very students who support the institution, and for whom the school supposedly exists.

Are you - or students at your institution - being paid the sub-minimum wage by the college or local businesses? Here are steps that you can take to ensure that, at the very least, sub-minimum wage regulations are followed, and students are treated fairly under the law. At the best, you may eliminate student sub-minimum wages in your area entirely.

1. MAKE SURE THAT THE LETTER OF THE LAW IS FOLLOWED.
2. DEMAND THAT THE REQUIREMENTS FOR ISSUANCE OF A SUB-MINIMUM WAGE WAIVER UNDER COLLEGE WORK STUDY ARE MET BY BOTH PRIVATE AND PUBLIC INSTITUTIONS.
3. DEMAND COLLEGE EMPLOYMENT OFFICES INVESTIGATE JOBS LISTED WHICH PAY THE SUB-MINIMUM WAGE.
4. FILE A COMPLAINT TO THE REGIONAL WAGE AND HOUR DIVISION OFFICES OF THE DEPARTMENT OF LABOR.
5. ORGANIZE BOYCOTT CAMPAIGNS.
6. WRITE NEWS ARTICLES ON THE SUB-MINIMUM WAGE.
7. OBTAIN LOCAL UNION SUPPORT.

1. <u>MAKE SURE THAT THE LETTER OF THE LAW IS FOLLOWED.</u>

At the present time, there has not been strict compliance with the Department of Labor regulation concerning the sub-minimum wage. Schools who apply for certification should be required to submit to the Department of Labor a detailed analysis of labor conditions at a school, and provide documentation that sub-minimum rates are needed and can be implemented without violation of the regulations.

If student workers discover that displacement of full time workers is occuring because sub-minimum wages are being paid to students, or that adequate information has not been posted to inform those student workers that a school has applied for a sub-minimum wage certificate, a complaint can be filed with

the Wage and Hour Division of the Department of Labor.

Certification for Educational Institutions and Retail Establishments.

A retail employer must also go through the same certification procedure to hire students at sub-minimum wages. The Department of Labor's regulations have one extra stipulation in regard to retail institutions. A retail organization must state that four or less student workers will be employed at sub-minimum wages. If more than four are to be employed, the Department of Labor must be satisfied that no displacement of full time workers will occur.

Colleges are immediately empowered to pay sub-minimum wages as soon as applications for authorization have been applied for. For retail establishments, a certificate from the Department of Labor must be received first, before payment of sub-minimum wages to student workers can begin. This difference in regulation between retail and academic institutions suggests that enforcement of the anti-displacement provision is more strict for a retail organization.

Compliance Check Procedure.

After applying for the certificate, Department of Labor regulations state that a compliance check must be made on the institution in question. During this 30 day period, any person from the community or labor force involved can challenge the application for the sub-minimum wage. The Labor Department may, during this period, call witnesses from union organizations to comment on labor conditions. Union representatives will be asked to make statements of the possibility of full time workers being displaced from employment by full time students being hired at the lower wage. If no compelling complaints are

filed with the Department of Labor in 30 days and the Labor Department itself finds no violations of the Fair Labor Standards Act by the institution in question, a certificate of authorization to pay the sub-minimum wage will be issued. This certificate will remain in effect for a period of one year.

Using the Regulation For Your Benefit.

Students must remember that they must take the initiative to inform the Department of Labor that the regulations set down are not being followed. By making both the employer and Labor Department accountable to these regulations, a positive change in student worker conditions can and will occur.

2. DEMAND THAT THE REQUIREMENTS FOR ISSUANCE OF A SUB-MINIMUM WAGE WAIVER UNDER COLLEGE WORK STUDY ARE MET BY BOTH PRIVATE AND PUBLIC INSTITUTIONS.

Since January of 1978 over 120 public higher education institutions have applied to the Office of Education for a waiver that allows them to pay College Work Study students less than the minimum wage. Over 700 private higher education institutions have received permission from the Department of Labor to pay full time students sub-minimum wage. The Office of Education allows this waiver to apply to students working under the College Work Study program even though the requirements for payment of a sub-minimum wage under College Work Study are stricter than those set by Department of Labor.

Under statute and Office of Education regulations a rate of compensation lower than the minimum wage may be made if exceptional circumstances warrant such a lower rate, its approval is not precluded by law and it is consistent with and promotive of the purpose of the College Work Study program.

To summarize, the preconditions of the waiver are:

1. The sub-minimum wage is commensurate with the skills of the student employee.

2. The sub-minimum wage is not in conflict with local regulations.

3. The sub-minimum wage is comparable to wages paid for similar part-time work in the area.

4. The sub-minimum wage does not discourage but indeed promotes the education of financially needy students.

Payment of sub-minimum wage to students under College Work Study in no way benefits students. It only requires students to work longer hours, It therefore leaves less time for studying and other activities. The institution on the other hand benefits twice. First, under College Work Study the Federal Government pays 80% of the wages paid. Secondly, they are allowed to pay 15% below the minimum wage set by College Work Study. Paying students the minimum wage would cost the institution only 7 cents more per hour under the current minimum wage of $2.65 an hour.

The purpose of the program is employment of students in order to assist them in paying the cost of their education. It is not to provide an inexpensive labor to institutions. Therefore longer hours for lower wages is not consistent with or promotive of the purpose of College Work Study.

The Office of Education is currently granting all applications for waivers. They do not require institutions to provide justification for their request or public notice by the institution that they have or are applying for this waiver. In addition, they do not require the Department of Labor to use stricter requirements of College Work Study in allowing private institutions to pay a sub-minimum wage to College Work Study students.

The Oregon Student Lobby has been fighting the granting of a sub-

minimum wage waiver to the Oregon State System of Higher Education throughout the past year. They have waged an active campaign on the campus, State and Federal levels. This has included collecting wage rate data, surveys of campus wage rates and an intensive awareness raising campaign. The National Student Lobby has been assisting the Oregon Student Lobby in their campaign. The National Student Lobby has begun efforts to have the Office of Education review the entire process by which waivers are granted and develop a new procedure with full input from students.

Students should check to see that they are not being paid sub-minimum wages under College Work Study. Check to see if the Office of Education has granted a sub-minimum wage waiver to your school. File a complaint if it hasn't been already and sub-minimum wages are being paid. Challenge the waiver if it has been issued. If you attend a private institution that has a waiver from the Department of Labor, make sure that the requirements for sub-minimum wage for the College Work Study program are fully met. Urge the Office of Education to change its policy in the granting of these waivers.

3. DEMAND COLLEGE EMPLOYMENT OFFICES INVESTIGATE JOBS LISTED WHICH PAY THE SUB-MINIMUM WAGE.

Students should demand that college employment offices investigate any job request which may pay the sub-minimum wage. If any employers who make such job requests pay the student sub-minimum wage, demand that the employment office adopt a policy of refusing to post such job orders.

4. FILE A COMPLAINT TO THE REGIONAL WAGE AND HOUR DIVISION OFFICES OF THE DEPARTMENT OF LABOR.

Complaints concerning student sub-minimum wages should be directed to

Regional Wage and Hour Division Offices of the Department of Labor. Below is a list of these offices:

ATLANTA, GEORGIA

(Florida, Georgia, Kentucky, North Carolina, South Carolina, Tennessee)
Room 331
1371 Peachtree St. NE
Atlanta, Georgia 30309
Telephone: (404) 526-5801

BIRMINGHAM, ALABAMA

(Alabama, Mississippi)
1931 Ninth Ave. South
Birmingham, Alabama 35202
Telephone: (205) 229-1302

BOSTON, MASSACHUSETTS

(Connecticut, Maine, Massachusetts, New Hampshire, Rhode Island, Vermont)
John F. Kennedy Federal Building
Government Center
Boston, Massachusetts 02203
Telephone: (617) 223-5565

CHICAGO, ILLINOIS

(Illinois, Indiana, Michigan, Minnesota, Ohio, Wisconsin)
230 South Dearborn St.
Eighth floor
Chicago, Illinois 60604
Telephone: (312) 353-7246

DALLAS, TEXAS

(Arkansas, Louisiana, New Mexico, Oklahoma, Texas)
Room 506
Griffin Square
Dallas, Texas
Telephone:

KANSAS CITY, MISSOURI

(Iowa, Kansas, Missouri, Nebraska)
2000 Federal Office Building
911 Walnut Street
Kansas City, Missouri 64106
Telephone: (816) 374-5382

NEW YORK, NEW YORK

(New Jersey, New York)
1515 Broadway
New York, New York 10036
Telephone: (212) 399-5633

PHILADELPHIA, PENNSYLVANIA

(Delaware, District of Columbia, Maryland, Pennsylvania, Virginia, West Virginia)
Gateway Building, 15th floor
3535 Market Street
Philadelphia, Pennsylvania 19104
Telephone: (215) 596-1195

SALT LAKE CITY, UTAH

(Montana, Utah, Wyoming)
3207 Federal Building
125 South State St.
Salt Lake City, Utah 84111
Telephone: (801) 524-5706

SAN FRANCISCO, CALIFORNIA

(Arizona, California, Hawaii, Nevada, Guam, and various Pacific Islands)
Room 10431
450 Golden Gate Ave., Box 36018
San Francisco, California 94102
Telephone: (415) 556-3663

5. ORGANIZE BOYCOTT CAMPAIGNS.

Student Governments can effectively launch campaigns to condemn retail and/or educational institutions which pay the sub-minimum wage. An effective method of action could also be the call for consumer and employee boycotts by student groups against those institutions and retail outlets which are paying sub-minimum wage.

6. WRITE NEWS ARTICLES ON THE SUB-MINIMUM WAGE.

Student newspapers can launch informational campaigns concerning the student sub-minimum wage. Lists of retail institutions can be printed in student newspapers in conjunction with boycott efforts.

7. OBTAIN LOCAL UNION SUPPORT.

If students find they have reason to complain to the Department of Labor, support of local unions can be solicited. The national units of the AFL-CIO, American Federation of State, Municipal and County Workers, and the Public Service Employee Union have all shown strong support for the repeal of sub-minimum wage laws. All have local affiliation groups in most states. The address of each organization can be easily found in local telephone directories.

APPENDIX A

Public Institutions That Have Applied For College Work Study Sub-Minimum Wage Waiver

Alabama

Jacksonville State University
Snead State Junior College
Southern Vocational College
University of Northern Alabama

Arizona

Arizona State University
Pinal County Community College District

Arkansas

Arkansas State University
Henderson State University
Southern Arkansas University

California

Mt. San Antonio College

Colorado

Adams State College
Lamar Community College

Florida

Lake City Community College
Manatee Junior College

Georgia

Gordon Junior College
Valdosta State College
West Georgia College

Illinois

Oakton Community College

Indiana

Indiana State University

Iowa

Iowa State University of Science and Technology
North Iowa Area Community College
Southwestern Community College

Kansas

Fort Scott Community College
Pratt Community College
Washburn University of Topeka

Kentucky

Eastern Kentucky University
Murray State University
Northern Kentucky University
University of Louisville
Western Kentucky University

Louisiana

Louisiana State University at Alexandria
Northwestern State University of Louisiana
The University of Southwestern Louisiana

Maryland

Chesapeake College
Hagerstown Junior College

Missouri

Central Missouri State University
Missouri Southern State College

Missouri

Northeast Missouri State University
Trenton Junior College
University of Missouri

Mississippi

Delta State University

Montana

Miles Community College

New Hampshire

University System of New Hampshire

New Jersey

The William Paterson College of New Jersey

New Mexico

New Mexico Tech
Western New Mexico University

New York

Broome Community College
Cayuga County Community College
Jamestown Community College
Niagara County Community College
State University of New York, Alfred and Plattsburgh

Ohio

Bowling Green State University
Miami University

Oklahoma

Northwestern Oklahoma State University
Southwestern Oklahoma State University
The University of Oklahoma

Oregon

Oregon State System of Higher Education

Pennsylvania

Commonwealth of Pennsylvania, Dept. of Education
East Stroudsburg State College
Indiana University of Pennsylvania
Northhampton County Area Community College

South Carolina

Francis Marion College
Lander College
South Carolina State College
University of South Carolina

Tennessee

Austin Peay State University
Middle Tennessee State University
The State University and Community College System of Tennessee
The University of Tennessee at Chattanooga, Knoxville and Martin

Texas

Dallas County Community College District
Angelo State University
Hill Junior College
Lamar University
Southwest Texas State University
Stephen F. Austin State University
Sul Ross State University
Tarleton State University
Texas A & M University
West Texas State University
Western Texas College
Wharton County Junior College

Utah

Utah Technical College at Provo

Vermont

Vermont Technical College

Virginia

The College of William and Mary
James Madison University
Old Dominion University
Southside Virginia Community College,
Christanna

Washington

The Evergreen State College
Washington State University

West Virginia

Parkersburg Community College
West Virginia Institute of
Technology
West Virginia State College

A listing of the 700 + institutions that have been granted a sub-minimum wage waiver from the Department of Labor is not available at this time. We urge you to contact your regional Department of Labor office and request a listing of those institutions within your region.

Regulations, Part 519: Employment of Full-time Students at Subminimum Wages

Title 29 of the
Code of Federal Regulations

U.S. Department of Labor
Employment Standards Administration
Wage and Hour Division

WH Publication 1223
(Reprinted December 1975)

APPENDIX B

Below you will find the relevant material from Subpart B, Institutions of Higher Education. Complete regulations, including Subpart A which refers to retail or service establishments and agriculture, are available from the Department of Labor.

Subpart B—Institutions of Higher Education

§ 519.11 Applicability of the regulations in this subpart.

(a) *Statutory provisions.* Under section 14 of the Fair Labor Standards Act of 1938, as amended, and the authority and responsibility delegated to him/her by the Secretary of Labor (36 FR 8755) and by the Assistant Secretary for Employment Standards (39 FR 33841) the Administrator of the Wage and Hour Division is authorized and directed, to the extent necessary in order to prevent curtailment of opportunities for employment, to provide by regulation or order for the employment, under certificates, of full-time students in institutions of higher education. That section contains provisions requiring a wage rate in such certificates of not less than 85 percent of the minimum applicable under section 6 of the Act, limiting weekly hours of employment, stipulating compliance with the applicable child-labor standards, and safeguarding against the reduction of the full-time employment opportunities of employees other than full-time students employed under certificates.

(b) *Source of limitations.* Some of the limitations expressed in this subpart are specifically required in section 14(b) of the Act. The other limitations implement the provisions relating to employment opportunities, i.e., the "extent necessary in order to prevent curtailment of opportunities for employment" and the requirement that the regulations shall "prescribe standards and requirements to insure that this paragraph will not create a substantial probability of reducing the full-time employment opportunities of persons other than those to whom the minimum wage rate authorized by" section 14(b) of the Act is applicable.

§ 519.12 Definitions.

(a) *Full-time students.* A "full-time student" for the purpose of this subpart is defined as one who meets the accepted definition of a full-time student of the institution of higher education which employs him/her. A full-time student retains that status during the student's Christmas, summer, and other vacations, even when a student is taking one or more courses during his/her summer or other vacation. The phrase in section 14(b) of the statute "regardless of age but in compliance with applicable child labor laws", among other things, restricts the employment in an institution of higher education to full-time students who are at least 14 years of age because of the application of section 3(1) of the Act.

(b) *Institution of higher education.* An "institution of higher education" is an institution above the secondary level, such as a college or university, a junior college, or a professional school of engineering, law, library science, social work, etc. It is one that is recognized by a national accrediting agency or association as determined by the U.S. Commissioner of Education. Generally, an institution of higher education: (1) Admits as regular students only individuals having a certificate of graduation from a high school or the recognized equivalent of such a certificate; and (2) is legally authorized within a State to provide a program of education beyond high school; and (3) provides an educational program for which it normally awards a bachelor's degree, or provides not less than a two-year program which is acceptable for full credit toward such a degree or offers a two-year program in engineering, mathematics, or the physical or biological sciences which is designed to prepare the student to work as a technician and at a semi-professional level in engineering, scientific, or other technological fields which require the understanding and application of basic engineering, scientific, or mathematical principles of knowledge.

§ 519.13 Application for a full-time student certificate.

(a) Whenever the employment of its full-time students working in an institution at wages lower than the minimum wage applicable under section 6 of the Fair Labor Standards Act is believed to be necessary to prevent curtailment of opportunities for employment and employment of them will not create a substantial probability of reducing the full-time employment opportunities of other workers, an application for a certificate may be filed by their employer with the appropriate Regional Office of the Wage and Hour Division (or the Denver, Colorado Area Office for Colorado, North Dakota and South Dakota; the Salt Lake City, Utah Area Office for Montana, Utah and Wyoming; and the Caribbean Office for the area it covers). Such an application shall be signed by an authorized representative of the employer.

(b) The application provided for under § 519.14 must be filed in duplicate on official forms or exact copies thereof. The forms are available at the offices mentioned in paragraph (a) of this section. The application must contain the information on numbers of full-time students and full-time employees (other than full-time students), minimum full-time student wages, and other information for which request is made on the form.

(c) Separate application must be made for each campus of an institution of higher education for which authority to employ full-time students at subminimum wage rates is sought.

(d) Application for renewal of a certificate shall be made on the same type of form as is used for a new application. No certificate in effect shall expire until action on such an application shall have been finally determined, provided that such application has been properly executed, and is received by the office specified in paragraph (a) of this section not less than 15 nor more than 30 days prior to the expiration date. A properly executed application is one which fully and accurately contains the information required on the form, and the required certification by an authorized representative of the employer.

§ 519.14 Procedure for action upon an application.

(a) Under certain conditions, an institution of higher education has temporary authorization to employ full-time students at sub-

minimum wages. These conditions are: (1) Absence of an effective finding by the Secretary that the institution has been employing full-time students under certificates in violation of the requirements of section 14(b)(3) of the Act or of these regulations; and (2) forwarding of a properly completed application to the Wage and Hour Division not later than the start of employment of full-time students at subminimum wages; and (3) posting a notice of such filing at the place(s) specified in paragraph (a) of § 519.16 of this subpart; and (4) compliance during the temporary authorization period with the requirements set forth in paragraphs (b) and (e) through (j) of § 519.16 of this subpart.

(b) Temporary authorization under the conditions set forth in paragraph (a) of this section is effective from the date the application is forwarded to the Wage and Hour Division in conformance with § 519.13 of this subpart. This authorization shall continue in effect for one year from the date of forwarding of the application unless, within 30 days, the Administrator or his/her authorized representative denies the application, issues a certificate with modified terms and conditions, or expressly extends the 30-day period of review.

(c) Upon receipt of an application for a certificate, the officer authorized to act upon such application shall issue a certificate if the terms and conditions specified in this subpart are satisfied. To the extent he/she deems appropriate, the authorized officer may provide an opportunity to other interested persons to present data, views, or argument on the application prior to granting or denying a certificate.

(d) Until April 30, 1976, if a certificate is issued there shall be published in the Federal Register a general statement of the terms of such certificate together with a notice that, pursuant to § 519.19, for 45 days following such publication any interested person may file a written request for reconsideration or review. Thereafter, applications and certificates will be available for examination in accordance with applicable regulations in Washington, D.C., and in the appropriate Regional Office of the Wage and Hour Division (or the Denver, Colorado Area Office for Colorado, North Dakota, and South Dakota; the Salt Lake City, Utah Area Office for Montana, Utah, and Wyoming; and the Caribbean Office for the area it covers) for institutions of higher education in its area. A period of 60 days will be provided after certificate issuance during which any interested person may file a written request for reconsideration or review.

(e) If a certificate is denied, notice of such denial shall be sent to the employer, stating the reason or reasons for the denial. Such denial shall be without prejudice to the filing of any subsequent application.

§ 519.15 Conditions governing issuance of full-time student certificates.

Certificates authorizing the employment of full-time students at subminimum wage rates shall not be issued unless the following conditions are met:

(a) Full-time students are available for employment at subminimum rates; the granting of a certificate is necessary in order to prevent curtailment of opportunities for employment.

(b) The employment of full-time students will not create a substantial probability of reducing the full-time employment opportunities for persons other than those employed under such certificates.

(c) Abnormal labor conditions such as a strike or lockout do not exist in the units of the campus for which a full-time student certificate is requested.

(d) The data given on the application are accurate and based on available records.

(e) There are no serious outstanding violations of the provisions of a full-time student certificate previously issued to the employer, nor have there been any serious violation of the Fair Labor Standards Act (including Child-Labor Regulation No. 3 and the Hazardous Occupations Orders published in Part 570 of this chapter) which provide reasonable grounds to conclude that the terms of a certificate may not be complied with, if issued.

(f) The subminimum wage rate(s) proposed to be paid full-time students under temporary authorization or under certificate is not less than 85 percent of the minimum wage applicable under section 6 of the Act.

(g) Full-time students are not to be employed by an institution of higher education at subminimum wages under this subpart in unrelated trades or businesses as defined and applied under sections 511 through 515 of the Internal Revenue Code, such as apartment houses, stores, or other businesses not primarily catering to the students of the institution.

(h) Certificates will not be issued where such issuance will result in a reduction of the wage rate paid to a current employee, including current student employees.

§ 519.16 Terms and conditions of employment under full-time student certificates and under temporary authorization.

(a) A full-time student certificate will not be issued for a period longer than 1 year, nor will it be issued retroactively. It shall specify its effective and expiration dates. A copy of the certificate shall be posted during its effective period in a conspicuous place or places in the institution of higher education readily visible to all employees, for example, adjacent to the time clock or on the bulletin board used for notices to the employees. If temporary authorization is in effect under paragraph (a) of § 519.14, a notice thereof shall be similarly posted during the effective period of such authorization.

(b) Full-time students may not be employed under a certificate at less than 85 percent of the minimum wage applicable under section 6 of the Act.

(c) An institution of higher education shall not employ full-time students at subminimum wages under this subpart in unrelated trades or businesses as defined and applied under sections 511 through 515 of the Internal Revenue Code, such as apartment houses, stores, or other businesses not primarily catering to the students of the institution.

(d) An institution of higher education subject to a finding by the Secretary that it is in violation of the requirements of section 14(b)(3) of the Act or of this subpart must be issued a full-time student certificate before it can employ full-time students at wages below those required by section 6 of the Act. The Administrator or his/her authorized representative will not issue a full-time student certificate to such an institution without adequate assurances and safeguards to insure that the violations found by the Secretary will not continue.

(e) Full-time students shall not be permitted to work at subminimum wages for more than 8 hours a day, nor for more than 40 hours a week when school is not in session, nor more than 20 hours a week when school is in session (apart from a full-time student's summer vacation), except that when a full-day school holiday occurs the weekly limitation on the maximum hours which may be worked shall be increased by 8 hours for each such holiday but in no event shall the 40-hour limitation be exceeded. (Note: School is considered to be in session for a student taking one or more courses during a summer or other vacation.) Whenever a full-time student is employed for more than 20 hours in any workweek in conformance with this paragraph, the employer shall note in his/her payroll that school was not in session during all or part of that workweek or the student was in his/her summer vacation.

(f) Neither oppressive child labor as defined in section 3(1) of the Act and regulations issued under the Act nor any other employment in violation of a Federal, State or local child labor law or ordnance shall come within the terms of any certificate issued under this subpart.

(g) Full-time students shall be employed at subminimum wages under this subpart only outside of their school hours, i.e., only outside of the scheduled hours of instruction of the individual full-time student.

(h) No full-time student shall be hired under a full-time student certificate for work in a unit or units of the campus where abnormal labor conditions, such as a strike or lockout, exist.

(i) No provision of any full-time student certificate shall excuse noncompliance with higher standards applicable to full-time students which may be established under the Walsh-Healey Public Contracts Act or any other Federal law, State law, local ordnance, or union or other agreement. Thus, certificates issued under this subpart have no application to employment under the Service Contract Act.

(j) No full-time student certificate shall apply to any employee to whom a certificate issued under section 14(a) or (c) of the Act has application.

§ 519.17 Records to be kept.

(a) The employer shall designate each worker employed as a full-time student under a full-time student certificate at subminimum wages, as provided under Part 516 of this chapter.

(b)(1) In addition to the records required under Part 516 of this chapter and this subpart, the employer shall keep the records specified in paragraph (b)(2) and (3) of this section specifically relating to full-time students employed at subminimum wages.

(2) The institution shall obtain at the time of hiring and keep in its records information that the employee is its full-time student at the physical location of the institution in accordance with its accepted definition of a full-time student. During a period between attendance at different schools not longer than the usual summer vacation, the acceptance by the institution of the full-time student for its next term will satisfy the requirements of this subparagraph.

(3) An institution of higher education shall maintain records showing the total number of all full-time students of the type defined in § 519.12(a) employed at the campus of the institution at less than the minimum wage otherwise applicable under the Act, and the total number of all employees at the campus to whom the minimum wage provision of the Act applies.

(c) The records required in this section, including a copy of any full-time student certificate issued, shall be kept for a period of 3 years at the place and made available for inspection, both as provided in Part 516 of this chapter.

§ 519.18 Amendment or replacement of a full-time student certificate.

In the absence of an objection by the employer (which may be resolved in the manner provided in Part 528 of this chapter) the authorized officer upon his/her own motion may amend the provisions of a certificate when it is necessary by reason of the amendment of these regulations, or may withdraw a certificate and issue a replacement certificate when necessary to correct omissions or apparent defects in the original certificates.

§ 519.19 Reconsideration and review.

(a) Within 15 days after being informed of a denial of an application for a full-time student certificate or within 45 days after Federal Register publication of a statement of the terms of the certificate granted (subsequent to April 30, 1976, within 60 days after a certificate is granted), any person aggrieved by the action of an authorized officer in denying or granting a certificate may: (1) File a written request for reconsideration thereof by the authorized officer who made the decision in the first instance, or (2) file with the Administrator a written request for review.

(b) A request for reconsideration shall be accompanied by a statement of the additional evidence which the applicant believes may materially affect the decision and a showing that there were reasonable grounds for failure to present such evidence in the original proceedings.

(c) Any person aggrieved by the reconsideration determination of an authorized officer may, within 15 days after such determination, file with the Administrator a written request for review.

(d) A request for review shall be granted where reasonable grounds for the review are set forth in the request.

(e) If a request for reconsideration or review is granted the authorized officer or the Administrator may, to the extent he/she deems it appropriate, afford other interested persons an opportunity to present data, views, or argument.

§ 519.20 Amendment or revocation of the regulations in this subpart.

The Administrator may at any time upon his/her own motion or upon written request of any interested person or persons setting forth reasonable grounds therefor, and after opportunity has been given to interested persons to present data, views, or argument, amend or revoke any of the regulations of this subpart.

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